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EXAMINER	
MCCORMICK, GABRIELLE A	

ART UNIT	PAPER NUMBER
3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/743,193	PENTECOST ET AL.	
	Examiner	Art Unit	
	GABRIELLE MCCORMICK	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on April 16, 2008.

2. Claims 13, 21 and 34 have been amended.

3. Claims 1-36 are currently pending and have been examined.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-4, 6-18, 20-26, 28-31, and 33-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon et al. (US Pat. No. 5,592,375 hereinafter referred to as "Salmon") in view of Hoyt et al. (US Pat. No. 6,085,195 hereinafter referred to as "Hoyt").

6. **Discussion of Prior Art:** Salmon discloses a network-based system for matching candidate (seller) profile information with employer (buyer) needs. The candidate profile information includes still and video images for conveying answers to interview questions. Salmon discloses the use of a kiosk for collection of multi-media information. Hoyt discloses a kiosk/booth system for capturing and distributing still and moving video images to a web site.

7. **Claim 1:** Salmon discloses

8. *video kiosks are operative to record a plurality of videos* (C6; L13-18) *and transmit the recorded videos over a network to a video collection server* (C14; L20-25) *so each of the recorded videos can be associated with a corresponding portfolio in a database containing a plurality of portfolios.* (C3; L15-18).

9. Salmon does not disclose *a plurality of video kiosks distributed across multiple locations.*

10. Hoyt, however, discloses "publicly located photo kiosks or booths". (C1; L35).

11. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a plurality of kiosks, as disclosed by Hoyt in the system disclosed by Salmon, for the motivation of providing a user with a conveniently located kiosk such as at "amusement parks, shopping malls, and alike". (Hoyt; C1; L43).

12. Further, as Salmon has disclosed a kiosk, it is obvious to expand the system of Salmon to include multiple kiosks which would inherently be distributed across multiple locations as kiosks are stand-alone units designed for this purpose. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

13. **Claim 13:** Salmon discloses

14. *receiving a video recording of a person* (C3; L28-37) *transmitted from the video kiosk location over a network;* (C14; L20-25) *storing the video recording in a portfolio associated with the person;* (C3; L32-35) *and providing an authorized user with access to the portfolio.* (C3; L40-42).

15. Salmon does not disclose *a plurality of video kiosks distributed across multiple locations.*

16. Hoyt, however, discloses "publicly located photo kiosks or booths". (C1; L35).

17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a plurality of kiosks, as disclosed by Hoyt in the system disclosed by Salmon, for the motivation of providing a user with a conveniently located kiosk such as at "amusement parks, shopping malls, and alike". (Hoyt; C1; L43).

18. Further, as Salmon has disclosed a kiosk, it is obvious to expand the system of Salmon to include multiple kiosks which would inherently be distributed across multiple locations as kiosks are stand-alone units designed for this purpose. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

19. **Claim 21:** Salmon discloses

20. *visiting a video kiosk; entering identifying information to access a profile; selecting a begin recording option to begin recording a video with a camera; speaking a message into the camera;*

and selecting a stop recording option to stop recording the video with the camera. (C6; L13-18: Salmon discloses both a microphone and a video camera for creating video clips. It is inherent that the functions of starting recording, speaking and stopping would be performed during the course of creating the clip. C6; L25-28: a profile is obtained by entering the product (i.e., seller) name.)

21. Salmon does not disclose *a plurality of video kiosks distributed across multiple locations.*

22. Hoyt, however, discloses "publicly located photo kiosks or booths". (C1; L35).

23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a plurality of kiosks, as disclosed by Hoyt in the system disclosed by Salmon, for the motivation of providing a user with a conveniently located kiosk such as at "amusement parks, shopping malls, and alike". (Hoyt; C1; L43).

24. Further, as Salmon has disclosed a kiosk, it is obvious to expand the system of Salmon to include multiple kiosks which would inherently be distributed across multiple locations as kiosks are stand-alone units designed for this purpose. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

25. **Claim 34:** Salmon discloses

26. *video kiosk is operative to record a video of a user* (C6; L13-18) *and transmit the recorded video over the network to a video collection server so the recorded video can be associated with a corresponding portfolio in a database containing a plurality of portfolios.* (C14; L20-25 and C3; L32-35)

27. Salmon does not disclose the *a plurality of video kiosks distributed across multiple locations each said video kiosk having a storage unit that houses a video camera coupled to a computer, said computer including a central processing unit, a display, an input means.*

28. Hoyt, however, discloses "publicly located photo kiosks or booths". (C1; L35); a kiosk with features including CPU, display and touch-screen. (Fig. 3).

29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a plurality of kiosks, as disclosed by Hoyt in the system disclosed by Salmon, for the motivation of providing a user with a conveniently located kiosk such as at "amusement parks, shopping malls, and alike". (Hoyt; C1; L43).

30. Further, as Salmon has disclosed a kiosk, it is obvious to expand the system of Salmon to include multiple kiosks which would inherently be distributed across multiple locations as kiosks are stand-alone units designed for this purpose. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a CPU and the various structural features of a kiosk, as disclosed by Hoyt, in the system disclosed by Salmon, for the motivation of providing the equipment necessary to perform the action of creating a video presentation, as disclosed by Salmon.

32. **Claim 2:** Salmon discloses a web server (C14; L20-25) and an authorized user accessing the portfolio. (C3; L40-42).

33. **Claims 3 and 18:** Salmon discloses searching for specified criteria and accessing matches. (C7; L51-58).

34. **Claims 4, 14, 15, 16 and 35:** Salmon discloses transaction applications including hiring and college. (C2; L21-23).

35. **Claims 6, 20 and 33:** Salmon discloses a video interview. (C6; L51-58).

36. **Claims 7-12, 24 and 25:** Salmon discloses a kiosk with a video camera (C6; L13-16), but not coupled to a computer with CPU, display or touch-screen. Salmon also does not disclose the structural features of the kiosk.

37. Hoyt, however, discloses a kiosk with features including CPU, display and touch-screen. (Fig. 3). Hoyt further discloses a free-standing unit housing the camera and computer (C9; L36-37); a bench (C5; L9); walls (C4; L62-63); a door (C5; L54-55); entry and exit (C4; L55-56); totally

enclosed booth (C7; L36-37); a curtain (Fig. 1); and positioning the camera to point to the user(s). (C6; L59-60).

38. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a CPU and the various structural features of a kiosk, as disclosed by Hoyt, in the system disclosed by Salmon, for the motivation of providing the equipment necessary to perform the action of creating a video presentation, as disclosed by Salmon.

39. **Claim 17:** Salmon discloses the authorized user is the person. (C6; 18-21: the seller (a person) is able to access the profile information to edit it.

40. **Claim 22:** Salmon discloses updating a Product Profile (C14; L11-19). It is inherent that since a profile can be updated, it must be able to exist prior to visiting the kiosk, since the kiosk serves as a Seller's Interface.

41. **Claim 23:** Salmon discloses creating a new profile (C4; L40-42). It is inherently accessed when the video clip is incorporated (C3; L34-36).

42. **Claim 26:** Salmon does not discloses a review option to review the video, however, Salmon discloses both a VCR and a video camera, both of which inherently contain rewind and play functions that would allow the video to be reviewed.

43. **Claim 28:** Salmon discloses a still image (C2; L31-33).

44. **Claims 29-30:** Salmon discloses "variable amounts of multimedia information". It is obvious that a seller would select a video clip to be stored. A seller would be motivated to present himself/herself in the best possible light to a potential employer.

45. **Claim 31:** Salmon discloses transmitting the Product Profile over a network from the seller's interface (kiosk) to the database server. (C14; L20-25).

46. **Claims 5, 19 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon et al. (US Pat. No. 5,592,375 hereinafter referred to as "Salmon") in view of Hoyt et al. (US Pat. No. 6,085,195 hereinafter referred to as "Hoyt") in view of Cascio (Managing Human Resources:

Productivity, Quality of Work Life, Profits. 1998. The McGraw-Hill Companies, Inc. USA. Fifth Edition).

47. **Claims 5, 19 and 32:** Salmon in view of Hoyt disclose the limitations of claims 1, 13 and 21. Salmon does not disclose a *video resume.*

48. Cascio, however, discloses the use of video resume for job-hunting on pg. 210.

49. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included video resumes, as disclosed by Cascio, in the system disclosed by Salmon, for the motivation of providing job candidates with the opportunity to present themselves in the "best possible light." (Cascio; pg. 210).

50. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon et al. (US Pat. No. 5,592,375 hereinafter referred to as "Salmon") in view of Hoyt et al. (US Pat. No. 6,085,195 hereinafter referred to as "Hoyt") in view of Skarbo et al. (US Pat. No. 5,764,901 hereinafter referred to as "Skarbo").

51. **Claim 27:** Salmon in view of Hoyt disclose the limitations of claim 21. Salmon does not disclose displaying words in a teleprompt script.

52. Skarbo, however, discloses using a teleprompting function to aid a user while recording an audio/visual greeting. (C5; L14-31).

53. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a teleprompter, as disclosed by Skarbo, in the system disclosed by Salmon, for the motivation of providing a means that allows the user to easily read a prepared message without glancing down at notes. This would provide a job candidate with a very polished and professional presentation of himself/herself.

54. **Claim 36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon et al. (US Pat. No. 5,592,375 hereinafter referred to as "Salmon") in view of Hoyt et al. (US Pat. No. 6,085,195 hereinafter referred to as "Hoyt") in view of Farris (US Pub. No. 2003/0208752).

55. **Claim 36:** Salmon in view of Hoyt disclose the limitations of claim 34. Salmon does not disclose an employer recording one of: *a job description, a description of ideal qualifications, a company profile, and interview questions.*

56. Farris, however, discloses a company (employer) using video applications to pose questions to an employee candidate. (P [0007]).

57. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an employer posing questions via video, as disclosed by Farris, in the system disclosed by Salmon, for the motivation of evaluating a job candidate. (Farris; P [0007]).

Response to Arguments

58. Applicant's arguments filed April 16, 2008 have been fully considered but they are not persuasive.

59. With respect to applicant's argument that Salmon does not teach a plurality of kiosks, the Examiner previously relied on Hoyt to disclose not only the concept of multiple kiosks distributed across multiple locations, but the physical features of a kiosk. Further, in the decision of *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. A plurality of kiosks is an example of a mere duplication of parts.

60. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). It is old and well known to provide a plurality of kiosks in order to increase market penetration by offering the service of the kiosk at multiple locations. ATMs are

an example of the old and well known concept of kiosks located across multiple locations for the convenience of the users.

61. Applicant states that the Office Action did not address the alternative system of a workstation as disclosed by Salmon. The Examiner asserts that Salmon disclosed a kiosk as a system and saw no need to provide detailed discussions of other equivalent systems of Salmon's invention.

62. In response to applicant's argument that Hoyt is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Hoyt discloses specific features of a system of kiosks for capturing and distributing video images. (Hoyt; C3; L54-56) Salmon similarly discloses an automated kiosk with input devices including a video camera. Therefore, the Examiner contends that Hoyt discloses art analogous to the operation of the kiosk disclosed by Salmon.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GABRIELLE MCCORMICK whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3629

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629